

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
February 28, 2017

The West Amwell Township Zoning Board of Adjustment regular meeting was called to order at 7:37PM by Chairman Fulper.

The following statement of compliance with the Open Public Meetings Law as listed on the meeting agenda was summarized by Chairman Fulper: This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting was transmitted to the Hunterdon County Democrat and Trenton Times on January 9, 2017. Notice has been posted accordingly and a copy of this notice is available to the public and is on file in the Zoning Board of Adjustment Office. The meeting was recorded via digital recording system and a copy of the CD is on file in the Zoning Board of Adjustment Office.

Chairman Fulper led the Pledge of Allegiance to the American Flag.

APPOINTMENTS/OATH OF OFFICE: None

ATTENDANCE/ROLL CALL:

Roll call on attendance: John Cronce-present, Joe Romano-present, John Ashton-present, Kevin Koveloski-present, Frank Sabatino (alt#1)-present, George Fisher (alt#2)-present, Robert Fulper-present

Absent: Brian Fitting, Ruth Hall

Professionals Present: Stewart Palilonis, Board Attorney; Tom Decker, Board Engineer;
Jim Kyle, Board Planner

NOMINATIONS/APPOINTMENTS: None

PRESENTATION OF MINUTES:

Special Meeting Minutes – January 5, 2017 - Motion was made by Ashton with a second by Fisher (alt#2) to accept the minutes as presented. Roll call: Cronce-aye, Romano-aye, Ashton-aye, Koveloski-aye, Sabatino-aye, Fisher (alt #2)-aye, Fulper-aye

RESOLUTION(S) OF APPROVAL:

John Thompson Block 29 Lot 18.01 – 315 Goat Hill Road

Motion was made by Fisher (alt#2) with a second by Koveloski to accept the resolution as presented. Roll call: Cronce-aye, Ashton-aye, Koveloski-aye, Fisher (alt #2)-aye, Fulper-aye

APPLICATION(S):

Public Hearing: – Barnyard Ventures Block 14 Lot 20 – 530 Route 31 Ringoes – Expansion of a Nonconforming Use (7:42 pm)

Application, Checklist, Site Plan comprised of one sheet provided by Genon Rema LLC/property tax dept., Topography Plan comprised of one sheet were received and distributed.

Notices of service and publication were reviewed by Attorney Palilonis and found to be in order.

Larry Wohl, attorney for the applicant, appeared on behalf of the applicant.

Attorney Wohl provided the Board with the Resolution from when Genon and his partner formed their venture and received a use variance for their property to be used as a farm restoration business from the Board in July 1999. This business locates barns and old farm buildings, disassemble them, then either reassemble them at other sites or puts them on a site for storage and sells them. In addition to this business they have the Anderson Tavern on site which is a circa 1750 structure. He noted there are photos of this structure on file as part of the original application. In addition there is a 1750 two story frame wagon house and an abandoned one story poultry building. He believes these structures are on the register of historic places. They are currently utilized for school tours.

Approval was given for a one bedroom apartment and office in the structure in addition to the commercial enterprise of farm restoration.

Attorney Wohl referred to Condition G of the approval which states there should be no outside storage. His client has onsite trailers where the company stores barn structures. The intent is to have the property be farmed or used for another agricultural purpose so no additional commercial structures should be built.

Attorney Wohl referred to page 3 of the report noting the property is large and rural. He provided an overview of the property including where the structures and trailers are located. On page 6 the trailers are depicted in a picture taken on Route 31.

Attorney Wohl said they are here tonight to seek an amended use variance to allow outdoor storage. They have applied with conditions for the storage to be shielded and have fencing and/or plantings installed.

Attorney Wohl referred to the Planning Board findings that still continue, specifically that the proposed use will result in the restoration and preservation of a significant historic structure and outbuildings which is one of the purposes to be advanced by zoning. The Planning Board also found that the applicant has established that the variance may be granted without substantial impact on the zone plans as the property fronts a heavily traveled state highway and is relatively low in intensity. There are commercial uses in the area including a used car dealership and a nursery. All of those conditions still exist.

A notice of violation was received by the applicant for outdoor storage, this application would rectify that.

The Board noted there were abandoned trailers on the property; Attorney Wohl expressed that the semi-truck trailers are being used for storage.

The following witness was sworn in by Attorney Palilonis:

Alex Greenwood – property owner - 48 Harbor-Pleasant Valley Rd., Titusville

Mr. Greenwood said his business has not changed significantly since approval was granted in 1999. A new roof was installed on the tavern last year. It has period furniture inside. Mr. Greenwood believes it was built in 1737 and run as a tavern until around 1790. The tavern keeper was the head of the militia in West Amwell. After 1790 it became a mansion associated with the mill across the street. It is part of a historic district which is in both West Amwell and East Amwell. It is on the State and National Registers of Historic Places. He has had discussions with D&R Greenway to eliminate development rights to keep it as a farm. There is a fenced sheep pasture as sheep are raised for meat on the farm. Hay is also grown.

On a question from Attorney Wohl, Mr. Greenwood explained that the visitor's center at Howell Living History Farm was a barn that he restored. Another project was done at the Holcomb Jimmison farm. He has worked on private and municipal projects.

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The property is in a RR5 residential district. Three building lots could be made from the property but Mr. Greenwood would prefer it stay as a small farm.

Mr. Greenwood explained that his business has been on the property since 1999. The business is mainly design and restoration of historic timber frame buildings, primarily barns. Barns are disassembled and the timbers brought to the shop on the property where repairs are made and replacement parts are cut. The timbers arrive by tractor trailer, some are as long as fifty feet. He commented that Route 31 is not a quiet road as hundreds of large trucks and thousands of automobiles pass by. Instead of building permanent structures trailers have been used. A new barn arrives once a month or so by trailer and are stored in the trailers. He is very conscious of aesthetics and can define an area for the trailers and limit how many can be there.

The site plan from 1999, which has been modified to show the location of the trailers, parking, and location for proposed plantings and a fence, was marked as "Exhibit B1".

The trailers would remain in the same area which is 145 feet from the side property line and approximately 350 feet off the highway. On a question from Attorney Wohl Mr. Greenwood agreed that if he was limited to an area of 75X60 feet that would be sufficient for the location of the trailers. Attorney Wohl said they are asking that the site plan approval be modified to allow for a 75X65 foot area for trailers as marked on the plan and that Use Variance Condition G noted in the 1999 use variance be removed or revised.

Attorney Wohl said the violation indicated abandoned trailers. The trailers are not abandoned and are being used. Attorney Wohl said trees were planted before the violation, as shown on page 6 of the plan, to shield the trailers from view. Permission to build a six foot tall stockade style fence is being sought to buffer the trailers. The fence ordinance requires fences in front yards be limited to four feet and no fence should be taller than six feet. The ordinance states that fences should be fifty percent open, a variance is needed for a stockade fence unless the Board would prefer a fence that complies. Attorney Wohl has offered, as a condition of approval, to submit a fence plan. The fence would be installed behind the trees.

Attorney Wohl said a neighbor has concerns that the site triangle on the property is not large enough, this site triangle would be expanded to shield the trailers while being safe for drivers.

Mr. Greenwood went over the plans commenting that they were drafted before he purchased the property. One driveway cut has been closed off. The area where there is parking is not accurate on the plan. Currently there are more spaces than needed. A dumpster has been added.

Chairman Fulper examined the map. The area where the trailers are located are highlighted along where the fence is proposed. The gravel area for parking is highlighted, there are fifteen to twenty parking spaces. Only four are needed. Two additional parking spaces have been added on another part of the property.

Attorney Wohl said Planner Kyle's report spells out all the purposes in zoning contained in Ordinance 109-2. They are also in New Jersey Municipal Land Use Law section 2. Attorney Wohl remarked that the Board in 1999 found that the restoration of significant historic structures and outbuildings as one of the purposes to be advanced by zoning was being promoted on this property. Attorney Wohl referred to section G in 109-2 of Municipal Land Use Law which addresses providing sufficient space...for a variety of agricultural, residential, recreational, commercial, and industrial uses and open space both public and private according to their respective environmental requirements in order to meet the needs of all New Jersey citizens. In addition, to provide a desirable visual environment through creative development techniques and good civic design and arrangement and to promote the conservation of historic sites and districts, open space, energy resources, and valuable natural resources in the State and to prevent urban

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sprawl and degradation of the environment through improper use of land. The RR5 district where this property is located is adjacent to the Sourlands Regional Planning District and the highway/commercial district. He believes this property serves as a transition as it is a low density development and he referred to the purposes set out in the Master Plan.

Mr. Greenwood said the property was purchased with the help of a low income state loan under a program to encourage sustainable businesses. The business has been in operation since 1999 without any known neighbor complaints. The buildings have been repaired, debris removed, he has maintained the grounds and improved the farm fields. He asked to have this put on record.

Chairman Fulper said the resolution from 1999 states the property is 15.94 acres but the property is actually 15.24. He asked if there were any changes. Mr. Greenwood said the strip along the road was taken when the road was widened. There were no land transactions since 1999.

Member Cronic asked if the trailers are licensed and registered. Mr. Greenwood said one is, the rest are not. A local trucker with his own rig is usually used for transport. The barns are brought in, stored in the trailers, and not taken out to restore until the barn is sold. Some were brought in on the trailers on the property.

Member Cronic asked what is being stored in the trailers now. Mr. Greenwood said a house from Monmouth County and barns.

Chairman Fulper referred to Exhibit B1 where the area depicted for the trailers is 60X75 feet and asked if trailers cover that whole area or is there room to bring in more trailers. Mr. Greenwood said the longest trailer is 53 feet. Chairman Fulper asked if more space is needed. Mr. Greenwood said he does not want more space. Each trailer is about eight feet wide and there are six, therefore there is room for one more trailer.

Member Cronic asked if any more trailers will be brought onto the property. Mr. Greenwood said no, that is why they want to define the area, so the boundaries are known. Member Cronic suggested defining how many trailers allowed.

A question was asked if Mr. Greenwood is looking for approval of an area or number of trailers. Chairman Fulper believes the location of the trailers is more important as that is the area to be shielded, he believes the area should be 60X75 feet. Chairman Fulper asked the maximum number of trailers that would fit in this area. If ten feet are needed for each trailer than theoretically there could be seven. Chairman Fulper said a number of trailers is easier to enforce but he believes they should only be inside the designated area.

Chairman Fulper asked the longest duration of time a trailer has been on the property. Mr. Greenwood said 16 years. Chairman Fulper asked Mr. Greenwood if he could conduct this business without the trailers; where would the barns be stored without the trailers. Mr. Greenwood said a pole barn could be built noting the expense, permanence of it, and issues with run off for a large building. To answer whether he can run the business without the trailers he responded "not easily". The benefit of the trailers is that at some point they won't be there anymore and there will be farmland [in that area]. Chairman Fulper said this is a great point as if someone else moves onto the property ten years from now they may want to use the pole barn for commercial use. The property is zoned residential (R5). Chairman Fulper said the proposal is a temporary solution and a condition could be that this approval is only for this specific business noting that this property could revert to an agricultural or residential use. For the Township's benefit it comes down to screening and if the visual aspects of the trailers can be overcome as they are

visible from Route 31. From his visit to the site Chairman Fulper could ascertain that a six foot fence would hide the trailers as the property is lower by the trailers.

Chairman Fulper asked Mr. Greenwood why he planted the trees. Mr. Greenwood said he did it to be a good neighbor as a neighbor commented unfavorably about seeing the trailers. It was noted that the trees were planted before the notice of violation was received. Chairman Fulper asked if this is the first complaint he had heard. Mr. Greenwood said it was.

Member Ashton recognizes the violation only refers to the trailers but notes that outdoor storage is not permitted. He asked if other items are being stored outside. Mr. Greenwood said there are timbers that are being worked on between the trailers and the highway.

Attorney Wohl Indicated that behind the chicken house is the workshop. Mr. Greenwood said the chicken house was 200 feet long and derelict. A new roof was installed on the first 100 feet of it. The last 100 feet has block walls, there are buildings between the block walls. Chairman Fulper said this needs to be noted. It was asked if items could be covered by tarps in the work area. Mr. Greenwood said it may not be a good alternative as the tarps would need to be secured.

Member Cronic asked if it would be better to locate the fence closer to this area rather than on Route 31. Mr. Greenwood said that due to the features of the land if the fence was closer to the trailers it would have to be 14 feet high. Chairman Fulper said from visiting the site he believes the fence would be more effective near Route 31. In that location it would buffer the entire property. The fence will be a 3 or 4 inch stockade fence located behind the trees. The trees will fill out in the next few years.

Chairman Fulper asked if there are any site views from Route 31 where you can see beyond the chicken coop. Mr. Wohl said there weren't.

Member Ashton asked if further planting would be an effective screen without the fence and would you consider this option? Mr. Greenwood expressed that he is trying to please both the neighbor and the Township. He considered additional plantings between the spruces until they fill out. The fence will be behind the plantings. It was noted that the trees at this point are not real effective in cutting off the view.

Engineer Decker asked what the trailers are parked on. Mr. Greenwood responded that they are parked on gravel. Attorney Decker noted that on the 1999 site plan the area for the trailers goes beyond the gravel.

Engineer Decker asked how trailers are maneuvered on the site noting the southern portion of the area is not on gravel. Mr. Greenwood commented favorably on the driving skills of the driver. Trailers usually come onto the property four times a year. There are four buildings a year restored but approximately fifteen additional buildings are stored on the property.

Engineer Decker asked if the dumpster has an enclosure around it. Mr. Greenwood reported that it doesn't. A dumpster enclosure was on the original site plan. Mr. Greenwood said he could build one.

Engineer Decker referred to the tree line that goes through the site triangle. Although not noted in the resolution it is typical that the vegetation be cleared to provide a clear line of site. Mr. Wohl said the vegetation is not clear but may be there at the request of the neighbor. If the neighboring property was cleared it would make sense to clear the subject property.

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Engineer Decker noted that there are items on the site plan that are different than originally proposed. He asked if the use variance is granted would he be coming in with a site plan. Mr. Wohl said he would ask for a waiver of a formal site plan application. A fence plan would be provided. It was requested by the Board that an as built survey be provided.

The floor was opened to the public (8:47 PM)

Beth Mitzen – 522 Route 31 North – Ms. Mitzen’s property is uphill from the subject property. She purchased the property in 1998. A disposal company came before the Board for this property previously, she spoke favorably about that application being denied. She has been happy with Mr. Greenwood’s business. She has the “best view” of the trailers as she views them broadside. She does not have any problem noting the property is historic. She commented that this problem was created by another neighbor. She appreciates that the structures are temporary and in a specific space. She is not concerned with the site triangle as she is confident Mr. Greenwood would be responsive to her requests to clear any trees. She believes if a neighbor has a problem they should get their own fence. There are 47,000 cars per day in a 48 hour period in July between Hilltop and Poplar per a Department of Transportation report she has. She commented that you cannot see the trailers driving by unless you are intentionally looking for them. She commented on closing her business tonight to be here and that only one person has complained. She does not want a fence of any kind and does not believe it is necessary. She noted that there is a black bear and deer that come through the properties. She believes a stockade fence looks like you are hiding something and there is nothing to hide. She commented on a variance already being granted for the property and that when Mr. Greenwood leaves the trailers will leave.

Brian Keller- 521 Route 31- Mr. Keller stated that he owns the property across the street. He believes there are more places to put the trailers than where they are at. He does not believe the fence is a good idea and stated that there should be a place on the property to put the trailers where no one can see them. He said he can see the trailers from his living room and does not believe the fence would block the trailers from his view.

Member Cronic asked if a berm could be constructed and the trees planted on top. It was agreed this is a possibility.

Chairman Fulper asked if Mr. Greenwood would consider moving the trailers as they could be moved to a part of the property where they wouldn’t be seen, behind the chicken coop was suggested. Mr. Greenwood explained that the ground is not level there and there is a swale running through it.

Beth Mitzen invited everyone to pull in and out of her driveway and spoke about the increased difficulty planting trees would cause when exiting her driveway. She commented that moving the trailers may be an option, or painting them a more natural color. She expressed that there are other options that are more financially responsible for Mr. Greenwood.

Mr. Greenwood offered to move the spruce trees in Ms. Mitzen’s line of site where they can be more effective as they are not providing a buffer.

There were further discussions on whether or not a berm would be appropriate.

Chairman Fulper summarized that there needs to be a buffer for the view across the highway.

Attorney Wohl said a small berm on one portion of the property would be appropriate. He suggested a three foot berm with trees planted on top of it would suffice.

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Brian Keller – 521 Route 31 – Mr. Keller invited the Board to come on his property and look for themselves.

Member Ashton believes the criteria is met aside from the outdoor storage. The main issue with the outdoor storage is the visible screening. He likes the idea of a berm and vegetation better than a stockade fence with keeping in mind the rural character.

Member Fisher expressed concerned for the neighbor's site triangle and asked for that to be made right.

Attorney Wohl reiterated that the only change from the original variance is the outdoor storage. They are now seeking expansion of the use to allow for the outdoor storage (trailers). They have agreed to conditions of the berm and will submit an as built or site plan. He asked for coordination between the applicant and the Board's professionals with the design of the berm and landscaping to the Board's satisfaction. They also agree to look at the site triangle and expand it if necessary.

Member Ashton inquired about a possible stipulation of removal of the trailers. Attorney Wohl detailed that if the business ceases the trailers have to be removed.

Engineer Decker suggested regarding the site triangle that there be "site distance" which takes into account the speed limit on Route 31 and develops an actual line of site. Attorney Wohl said this will be included on the as built. There was a brief discussion on the vegetation in the site triangle. Planner Kyle said there is an existing non-conforming condition on this property for the tavern set back which should be noted in the resolution.

Member Cronic asked if the Board was comfortable with not putting a limit on the number of trailers allowed. Chairman Fulper said a limit of an area of 75X60 feet was agreed upon.

Engineer Decker advised that a site plan is required unless a waiver of this is granted in the motion. There was brief discussion regarding waiving the site plan.

Member Ashton made a motion to amend the original variance that was granted in 1999 to allow for outdoor storage in the area marked in Exhibit B1 that is 75X60 feet with a maximum of seven trailers parked inside the area and storage within the confines of the walls of the chicken coop, although not roofed, would be permitted. This is subject to installation of a berm and plantings to the satisfaction of the Board Engineer to screen visually from the property across the street without impairing the site triangle from L21 B 14. Submission of an as built survey plan or amended site plan is required. There is a stipulation that if the business ceases to exist that the trailers will be removed as such time. Member Koveloski seconded the motion. Roll call: Cronic-aye, Romano-no, Ashton- aye, Koveloski-aye, Sabitno-aye, Fischer (alt. #2) - aye, Fulper-aye.

There was a recess at 9:20PM.

Chairman Fulper called the meeting back to order at 9:28PM.

Board member John Ashton recused himself from the David Rago application, stating he is a property owner within 200ft. Mr. Ashton left the meeting room at this time.

Public Hearing: – David Rago Realty, Inc. Block 16 Lot 17.02 – 638 Brunswick Pike (333 N. Main St., Lambertville) – use variance

Attorney Polilonis said notices were in order; Member Cronic said he would file them.

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Rich Mongelli, attorney for the applicant, appeared on behalf of the applicant, David Rago Realty, Inc. He indicated that they are requesting a use variance. The name of the company is Rago Arts Auction but they are a retail store. The Zoning Officer denied their application as "auction center" is not a permitted use per ordinance.

The following witnesses present on behalf of the applicant were sworn in by Attorney Palilonis:

Courtney Haviland- Michael Burns Architects, 21 Bridge Street, Lambertville, NJ

Michael Burns - Michael Burns Architects, 21 Bridge Street, Lambertville, NJ

Mr. Burns testified on his background as an expert witness. He was educated at Drexel University in Philadelphia, he is licensed as an architect and a planner in New Jersey. He is licensed as an architect in Pennsylvania, New York, Maryland, and Delaware. He holds a MCRAB Certificate. He has been recognized as an expert in twenty-six other municipalities in New Jersey. Chairman Fulper recognized Mr. Burns as an expert.

Attorney Mongelli explained that his client "came in quickly" with that application as he would like to purchase this property, which is in foreclosure, if the use is approved. There is a hard deadline from the bankruptcy court for them to proceed with the sale.

Ms. Haviland stated that the property is 638 Brunswick Pike, Block 16 Lot 17.02. It is located in both the Neighborhood Commercial and the Sourland Regional Planning zoning districts. The site is 21 acres or 962,676 square feet, 16.2 acres is within the NC zone, 5.7 is in the SRPD zone. The previous use for the site was for Pentecostal Prayer Faith Church. There was a conditional use variance granted in 2007 for Christian Academy and a site plan in 1991 for the Assembly of God church. Ms. Haviland pointed out the existing structures which are approximately 18,000 square feet. The two story building has an area of approximately 28,000 square feet. There is an existing paved parking lot with 162 parking spaces. There is an existing baseball field to the west of the structure. There is a septic field in the SRPD Zone. The exit and entry to the parking lot are along Rock Rd. West. There is an existing dumpster that will remain. The existing sign is to remain but be modified to the new use.

For the NC zoning district the existing structure conforms to both requirements. For the SRPD zone there are two existing bulk non-conformities. The maximum lot coverage requirement is ten percent, this property is at 10.8 percent. The minimum front yard setback for the SRPD zone is 150 feet, this structure is at 132 feet. These existing setbacks are not proposed to be changed.

The proposal for this site is to move the use of Rago Arts Auction facility into this building which requires a use variance. The proposal requests to maintain the building footprint, existing parking area with 162 parking spaces, the existing ingress and egress from Rock Road West, and the existing sign and sign lighting but be modified for the new use. The use is limited to the NC portion of the site. There are no changes proposed from the existing nonconformities. There is a retail use proposed of retail in one space of 2400 square feet of space which will require 140 parking spaces. There are 162 existing parking spaces on the site.

Ms. Haviland went over the view from the intersection of Brunswick Pike and Rock Road looking northwest and the view from Rock Road West to the parking lot.

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Planner Kyle expressed that these are not existing nonconformities as they meet the standards for the structures in the NC and there are no improvements in the septic system in the SRPD. There are no issues with any of the bulks, this [application] is strictly use.

Mr. Burns said Rago Arts Auction will use this site exclusively for their own purposes. They historically make their facilities available for other outside fundraising conditions for not for profits for social events including the Lambertville Historic Society, Lambertville Chamber of Commerce, and Fisherman's Mark. They would like this to continue. Rago Arts Auction considers these organizations important parts of the community that provide benefits therefore they would like to make the building available to them on a limited basis. Attendance to these events would be limited by the parking available.

The building occupancy on a routine basis includes forty-eight full time employees although a number of employees work from home. Auctions typically draw less than 100 people. The business operates from 9-5:30 on weekdays.

There are typically eleven auction weekends per year between August and mid-June. There is also a preview weekend before each auction weekend which draws fifty to one hundred people. Previews run from noon until 5:00PM. On preview weekends the materials available for auction are on exhibit for interested people to inspect and determine if they would like to bid during the auction time. The auctions occur at the facility but bids may also be placed online or over the phone.

Deliveries and pickups occur between 9AM and 5PM on weekdays by small trucks and cars, there are typically between ten and fifteen each day.

Rago Arts Auction has no objection to keeping the existing clothing donation shed on the site.

There are currently buses parked on the site which are not associated with Rago Arts Auction and will not be there anymore after the property is purchased. Rago Arts Auction owns a van which will occasionally be parked on the site along with a rental truck.

Attorney Mongelli explained that the buses on the site are owned by Pentecostal Prayer Faith Church who owns two churches, one in the Township and one in Hamilton. They will be relocating to the Hamilton location.

It was further explained that the only thing distinguishing Rago Arts Auction from a retail store is that they sell art objects and not commodities as Walmart or Cosco sells. They are a retail store but need the use variance as they auction. Goods are being sold, it is just an auction process rather than selling the item for a fixed price.

Mr. Burns said a use variance is required because the art auction use is not specifically listed as a permitted use in the NC portion of the site. It is in his opinion, as the planner states in his report, that the use is in line with the intent of the permitted uses in the NC zone. Specifically the NC zone allows for retail sales and museum uses. Retail sales is defined as use engaged in the sale of goods directly to a consumer when such goods are available for immediate purchase and removal from the premises by the purchaser. This is in line with what happens during an auction as people effectively purchase by bidding. Purchases are taken with them when they leave unless it is a large object, which then arrangements are made for shipping. This is the same that would be done at a retail shop.

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A museum is defined in the ordinance as a collection of art and other articles having exhibits for public viewing. This speaks to the preview weekend when the public views the objects exhibited.

Attorney Mongelli asked if Mr. Burns was familiar with Municipal Land Use Law, West Amwell Zoning Ordinance, West Amwell Master Plan, Hunterdon County Master Plan, and the State Development and Redevelopment plan. Mr. Burns said he was. Attorney Mongelli asked if the granting of the use variance in this application would advance the purposes of these. Mr. Burns said they would. Attorney Mongelli and Mr. Burns went over specifics on the advancement of these purposes. Mr. Burns stated that the proposed use is very much in alignment of the intent of the permitted uses specifically in the retail sales and museum uses, as result of that it will promote the public health, safety, morals, and general welfare.

Attorney Mongelli asked if this use would secure safety from fire, flood, panic and other natural and manmade disasters. Mr. Burns said this use advances that purpose as the existing structure meets all setback requirements maintaining the building accessibility and exposure to light and air. All of the existing site developments are located outside of the wetlands and the wetlands buffer areas. No expansion is proposed.

Attorney Mongelli referred to Items D, E, and F of Municipal Land Use Law which insures that development in individual municipalities does not conflict with development and general welfare of neighboring municipalities. Mr. Burns expressed that this application promotes this purpose. Attorney Mongelli referred to Item E regarding promoting population densities and concentrations that will contribute to the wellbeing of persons, neighborhoods, communities, regions, and preservation of the environment. Mr. Burns agreed that this use will promote that purpose. Attorney Mongelli referred to item F which is regarding providing specific space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses, and open space both public and private...in order to meet the needs of New Jersey citizens. Mr. Burns agreed that this application advances this purpose.

Attorney Mongelli asked Mr. Burns, with regard to this, what he based his opinions on. Mr. Burns said that even though this use is not permitted as a specific use in the zone his opinion is that the use is very much in line with the intent of the permitted uses listed, specifically the retail and museum use. The proposal is also in line with the Hunterdon County Master Plan and the state development and redevelopment plan.

Attorney Mongelli referred to Item J in Municipal Land Use Law, which addresses promoting the conservation of historic districts, conservation of energy and natural resources, open space, and preventing urban sprawl and asked if this use promotes that purpose. Mr. Burns said it does as reusing the existing vacant building promotes the conservation of energy and natural resources and prevents urban sprawl. The introduction of a new use will be a ratable for the Township without using massive amounts of energy to remove and reconstruct.

Attorney Mongelli asked with respect to municipal zoning ordinances in West Amwell, one purpose of the neighborhood commercial zone is to permit a more limited variety of non-residential land uses in appropriate locations and appropriate development intensities designed to provide very localized neighborhood personal services and limited retail opportunities. Does this use advance that purpose of the zoning ordinance? Mr. Burns replied that it does, as although it not specifically listed, the use is in line with the intent of the permitted uses specifically retail sales and museum use. The existing building and site make this an appropriate location for this use. The site and existing structure are uniquely suited for the proposed use with regard to size and ability the materials Rago Arts Auction provides. The proposal is also in line with the Hunterdon County Master Plan as well as the State Development and Redevelopment

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Plan. In response to a question from Attorney Mongelli, Mr. Burns expressed that it is in line with regard to the County Master Plan intention of preserving agricultural lands, rural character, and a promotion of a rural economy.

Attorney Mongelli referred to Mr. Burn's earlier testimony on the application with regard to the Hunterdon County Master Plan including the commercial office and industrial development task force recommendation. There is a business retention and expansion provision which has a purpose to create flexibilities required in responding to the changing needs of business in the county with verbiage stating local ordinances should be reviewed to determine if they hinder or promote needed changes in order to retain existing business. He further read that older buildings often define the character of the community and flexible state and local codes are needed so they can be adapted to new uses once not used for the use they were constructed for. Attorney Mongelli asked if the proposed use agrees with this purpose. Mr. Burns responded that it does and that the business will bring a new business and ratable to the Township. It will also repurpose a presently vacant existing building.

Attorney Mongelli referred to the introduction provision in the task force report where it was determined that more balance makes residential and non-residential land uses necessary if Hunterdon County is to achieve and maintain a healthy economic base in the future. Attorney Mongelli asked Mr. Burns if this application advances that goal. Mr. Burns replied that it does based on the proposal providing a new use in line with the permitted uses identified in the ordinance. The business will contribute to the economic base of the County.

Attorney Mongelli said an additional purpose in the Business Retention and Expansion portion of the Hunterdon County Master Plan talks about how local ordinances should be reviewed to determine whether they hinder or promote business retention and expansion. Municipal government should promote the expansion of commercial, office and industrial facilities. He asked Mr. Burns if this application advanced that goal. Mr. Burns responded that it does as the proposal will expand business opportunities and introduce a new commercial use in the Township.

Attorney Mongelli referred to the New Jersey State Development and Redevelopment Plan Item 1 which refers to revitalizing the state's cities and towns. He asked Mr. Burns if this application promotes this purpose. Mr. Burns says it does as it will reuse an existing vacant structure will revitalize and introduce a new ratable to this current underused property. Attorney Mongelli said Item 2 refers to natural resources. Mr. Burns said this application advances that purpose as the existing structure and infrastructure will be reused which will conserve the state's natural resources. Attorney Mongelli referred to Item 3 which speaks of promoting beneficial economic growth and asked if this application advances that goal. Mr. Burns said it does as it will introduce a new beneficial business which is in line with permitted uses identified in the Township's ordinance and will strengthen the Township's and State's economic growth. Item 4 refers to the environment and pollution cleanup. Mr. Burns said this application promotes this as it is reusing an existing structure preventing demolition. Using existing infrastructure will conserve the Township's resources. Item 7 refers to preserving resources with scenic, cultural, open space, or recreational value. Reusing existing structures contributes to preservation of open space and recreational activities. Item 8 refers to insuring sound coordination in an integrated statewide plan. This goal is advanced as the proposal incorporates all the goals as previously indicated and also promotes several purposes identified earlier.

Attorney Mongelli referred to the Hunterdon County Smart Growth Management Plan regarding promoting environmental sustainability. Mr. Burns said this application advances that purpose with the reuse of an existing structure and use of existing infrastructure. This is an environmentally responsible means for expanding the Township's economic growth.

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Attorney Mongelli asked if this application advances the goal of a healthy balance in the economy. Mr. Burns said it does as the proposal will introduce a new business which will contribute to the Township's economic growth and provide a new ratable.

Attorney Mongelli asked Mr. Burns if the Board could grant this variance without substantial detriment to the public good. Mr. Burns said yes, his belief is that the proposal will have no substantial detrimental impact to Township since it is in alignment of the intent of the permitted uses in the NC zone and the objectives of the Township Master Plan and zoning ordinance. The application promotes seven of the purposes of the MLUL. It is aligned with the goals of the Hunterdon County Master Plan, the Hunterdon County Smart Growth and Growth Management Plan, and the New Jersey State Development and Redevelopment Plan.

Attorney Mongelli asked if in Mr. Burns's opinion the benefits of granting this variance outweigh any detriment to the public. Mr. Burns replied yes noting he had previously outlined the benefits. In his opinion there is no detriment as the proposal will enhance the Township and encourage economic growth. In his opinion the proposal is uniquely suited to use the existing structure and infrastructure on the property.

Attorney Mongelli asked Mr. Burns if approval would substantially impair the intended purpose of the zoning plan and the zoning ordinance. Mr. Burns replied no as the proposal is in line with the NC zone and intent of the Township's Master Plan, seven of the purposes of the MLUL, the Hunterdon County Master Plan, Hunterdon County Smart Growth Plan, and the New Jersey State Development and Redevelopment plan.

Attorney Mongelli offered testimony on the bulk variances. Chairman Fulper said no bulk variances are needed.

Chairman Fulper asked how the use of the church compares with the proposed use as far as intensity. said he believes the use is slightly different, the intensity of the proposed use is spread more over the week as there are forty full time employees. The auctions occur eleven times a year therefore it is not a weekly condition that will bring a large amount of people to the site. An auction brings less than one hundred people, the preview weekends bring fifty to one hundred people. He is not familiar with how many people attended the church but based on the parking available it was in excess of what the applicant is expecting during a typical auction.

Attorney Mongelli said in the bankruptcy hearings he learned that the church started with over two hundred members. There was a very active daycare and Bible study on the weekends. The bankruptcy was caused by the dwindling number of parishioners. The intensity was probably higher on the weekend and lower during the week than the applicant's proposal.

Chairman Fulper asked if any traffic impact has been looked at or studied. Attorney Mongelli replied that when the church had a service everyone arrived at the same time. In the case of the auction or pre-auction there is more flexibility in arrival times. For the auction people only arrive at the time of the auction of the piece they are bidding on. He stated that there is more flexibility in arrival and departure times with the proposed use.

Member Cronce asked how many employees are present during the period of time when people attend the auction noting there are 162 spaces. Attorney Mongelli did not know how many employees but it would

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not be all forty-eight as a small staff runs the auction. Member Cronic asked if the parking lot would be adequate. Attorney Mongelli replied that it is.

Member Cronic asked if any vehicles larger than a van, such as a tractor-trailer, would be on the site during the week before the auction. Attorney Mongelli replied that typically a boxed truck or van is used. If there was a "magnificent" piece it could be transported in a tractor-trailer but that would be an anomaly. Member Cronic expressed concern for parking spaces being used for trucks during the auction resulting in "lost" parking spaces. Attorney Mongelli said if a large truck was needed it wouldn't stay on site. Member Cronic has a safety concern with trucks or parking on Rt. 518 or Rock Road. Attorney Mongelli referred to the ordinance which requires 142 spaces while the property has 162.

Member Cronic asked the hours of operation for an auction. Attorney Mongelli replied from noon until 5PM for both the preview and auction on Saturday and Sunday.

Member Cronic commented favorably on the desire to have non-profit functions on the site. He inquired how many there would be a year or if it is limited by ordinance. Attorney Mongelli said six a year.

Member Cronic asked if tents would ever be used outside. Attorney Mongelli responded that everything is done inside.

Member Cronic asked the Board if the applicant would have to get permission each time there was a non-profit event or what would happen if someone wanted to hold a wedding on the property. Attorney Mongelli commented that the applicant is not looking to do that [weddings], he would like to assist non-profits to raise funds by using his property. Member Cronic confirmed that these events will be inside. Attorney Mongelli said some municipalities require special permits, if that is a condition of the approval they don't have a problem with that.

Engineer Decker expressed that there are areas of disrepair on the site including lights down. He asked if the applicant would agree to bring the site back to what was previously approved under the original site plan. Attorney Mongelli said yes. Planner Kyle stated that the lighting on the sign is two shoebox fixtures mounted on the ground pointing up to the sign. He believes this should be changed to down lighting. The shrubs are overgrown preventing the light from being cast onto the sign. There are fixtures mounted on the front of the building that shine out to Route 518. Attorney Mongelli agreed to work with the Board with regard to the lighting.

Member Fisher asked if the septic system would be sized differently for a church than a daily use as proposed. Engineer Decker said a condition could be imposed requiring approval from the Hunterdon County Division of Public Health confirming that the system is adequate size.

Chairman Fulper asked if the changes to be made to the sign are known. Attorney Mongelli replied not yet, the original sign will be updated.

Chairman Fulper asked if the applicant was completely moving out of his current facility in Lambertville. Attorney Mongelli replied that he is.

Chairman Fulper opened the floor to the public (10:15PM)

Pamela Bland outlined where she lives relative to the property, she has lived there since 1974. Prior to the use as a school, then a church, it was a field used for cross country skiing. She said the water and septic were used on a daily basis as a school as opposed to the church using it once a week. It will return to a daily use and she has questions about the increased use of water and septic and the effect on the water table. She asked if there will be changes in the parking lot lighting.

Attorney Mongelli said there are no plans to change the lighting, the hours of operation do not require late evening lighting. Currently they go off around 10-11PM. The applicant's hours of operation are only until 5PM so there is no need for nighttime lighting after then. Ms. Bland asked if there will ever be evening hours. Attorney Mongelli said there would be evening hours when they allow non-profits to use the building but that will be six times a year at the most.

Ms. Bland said with regard to promoting the public good this application does not promote the good for her as there will be more activity on the site on a regular basis than there is now. She noted that it would be good for the Township as there will be revenue.

Ms. Bland asked about security as the building will be housing valuable antiques and the owner is well known. Attorney Mongelli said the building will be fitted with a security system. There will not be guards but more sophisticated alarms than what is in place now.

Ms. Bland does not agree that this application promotes agricultural and rural characteristics as the property is becoming a business, it is further away from the field it was in 1974. Attorney Mongelli said it is in the sense that they are reusing an existing structure.

Ms. Bland said her primary concerns are how the water table and the septic will be impacted by daily use and when one hundred people are in attendance for preview weekends. Attorney Mongelli stated they agreed as a condition to have the Hunterdon County Division of Public Health review the septic system to assure it is adequate. Ms. Bland asked how to assess any change in the water table. Engineer Decker said there are well reports on file. A well interference test was mentioned but there is no requirement to do this.

Ms. Bland expressed her concern for the increased traffic and parking.

Engineer Decker asked if there will be any exterior lighting for security purposes. Attorney Mongelli does not anticipate this. The lights are not needed after 5PM when they close. Typically they have used exterior lighting that goes off at 9 or 10PM, they could turn it off earlier.

Chairman Fulper asked if hours of operation and a maximum number of people allowed would be identified in the resolution. Favorable comments were made regarding this. The capacity of the building is unknown but the fire code would be the limit.

Chairman Fulper asked if the Board wants to specify the number of events allowed per year noting that the building ownership could change. Comments were exchanged about whether or not the fields would be used for recreation. Member Cronic suggested no outdoor events be allowed without approval. Further comments were exchanged on possible outdoor activities. Member Cronic expressed concern that if

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outdoor activities were not addressed now then violations would be brought to the Board when they occurred.

Planner Kyle asked to address the clothing bins on the site. He expressed no problem that they were there but would like a restriction that there be no donated material in the parking lot. Planner Kyle commented favorably on helping people. The applicant can reach out to the organization that placed them there and ask for reassurance. Favorable comments were made about the bins.

Member Cronic said the septic would be mentioned in the motion. Engineer Decker said approval is contingent on the Hunterdon County Division of Public Health approval.

Chairman Fulper said it would be appropriate to put the hours of operation in the motion. It was suggested the maximum number of people using the facilities be identified. A suggestion was made to limit attendance and parking by stating all parking must be on the site in the designated parking area. Member Cronic asked if the parking lot could be rented out. The applicant said they had no intention of doing that.

Member Cronic made a motion to approve the proposed use. There is a condition that all parking will be limited to the designated parking areas on site, there will be no offsite parking, and no parking beyond the ordinance for onsite parking. Approval is contingent on the Hunterdon County Board of Health approving the septic system. The site conditions should be updated to reflect the original site plan. The lighting on the existing sign should be modified so it is downwardly lit in accordance to the current ordinance. All operations will be inside the building. Typical hours of operation are 9-5:30 weekdays and 12PM to 5PM on weekends. There is a limit on events unrelated to business to six per year and they must end at 10PM. Any outdoor functions must be approved by Township Committee. Member Fisher seconded the motion. Cronic- Aye, Romano – Aye, Koveloski – Aye, Sabatino- Aye, Fisher-Aye, Fulper-Aye.

Board member John Aston returned to the meeting at this time

CORRESPONDENCE:

There were no comments on any correspondence.

Approval of Bill List 2/28/17:

Chairman Fulper presented the revised bill list with a total of \$2234.35.

Motion was made by Cronic with a second by Fisher for the approval of the Bill List contingent upon certification of funds. Motion carried on voice vote - all ayes.

DISCUSSION:

Attorney Mongelli informed the Board that there is a really tight deadline to get the resolution approved. Chairman Fulper said it would be approved at the next meeting.

Member Cronic indicated that he received a phone call from Chris Rose regarding the Mill Road application. Mr. Rose asked Mr. Cronic if everything was declined on the application or if twenty people were allowed. Attorney Palilonis said the Board can only say what was applied for was denied and they are permitted to run certain small events.

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Chairman Fulper said A-Z Venue's escrow has been depleted. They have not responded to two e-mails sent from the Board. They currently owe \$1370.00 on their escrow account. Chairman Fulper asked if this escrow could be combined with another escrow account with the same owner.

Chairman Fulper said there is a resident who wants to have a home occupation, this application was forwarded to the Construction Office by the Board Secretary Hall.

Chairman Fulper reported that Board Secretary Hall said the budget for the Board is fine as is and she is recommending it stay the same in 2017 as 2016. Board members agreed with this.

Member Romano noted, with regard to the applicants from the past year, it seems noise [is an issue] and asked if there is any interest in the Township to create an ordinance. Chairman Fulper said an ordinance was recently adopted, Ordinance 15, 2016, and is located on the website. He will ask Board Secretary Hall to forward copies of it to the Board members.

OPEN TO PUBLIC:

The floor was opened to the public.

Hearing no additional comments/questions, the floor was closed. (10:56 PM)

ADJOURNMENT:

All members voted in favor of adjournment at 10:56 PM

Respectfully submitted,

Christine A. Rosikiewicz

(Minutes composed from recorded meeting.)